

MINUTE ORDER

CASE NUMBER: CIVIL NO. 19-00452 LEK-KJM

CASE NAME: Josephine Grace Lapina vs. State of Hawaii, et al.

JUDGE: Leslie E. Kobayashi

DATE: 06/30/2021

COURT ACTION: EO: COURT ORDER INFORMING THE PARTIES OF THE COURT'S RULING ON DEFENDANTS' MOTION FOR ORDER OF REMAND

Before the Court is Defendants Barbara Shintani ("Shintani") and Jann Watanabe's ("Watanabe") Motion for Summary Judgment ("Motion"), filed on March 5, 2021. [Dkt. no. 93.] Pro se Plaintiff Josephine Grace Lapina ("Plaintiff") has not responded to the Motion. This Court has found the Motion suitable for disposition without a hearing, pursuant to Local Rule 7.1(c). See Minute Order, filed 3/9/21 (dkt. no. 94). The parties are hereby informed that the Motion is DENIED.

The crux of the Motion is Shintani and Watanabe's argument that: "To prevail on her 42 U.S.C. §§ 1983 and 1985 claims against [them], Plaintiff must prove that [they] were acting in their individual capacities[.]" *i.e.* they were not acting in their capacities as employees of the State of Hawai'i. See Mem. in Supp. of Motion at 11. The Motion is DENIED because its legal premise is incorrect. See, e.g., Hafer v. Melo, 502 U.S. 21, 27–28 (1991) ("The [§ 1983] requirement of action under color of state law means that [the defendant] may be liable for discharging [the plaintiffs] precisely because of her authority [in her state position].").

A written order will follow that will supersede this ruling. If Shintani and Watanabe wish to file a motion for reconsideration, they must wait until the written order is filed to do so.

IT IS SO ORDERED.

Submitted by: Agalelei Elkington, Courtroom Manager